

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code §§ 47-2836, 47-2851.03a(o), and 47-2851.20, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register, a new Chapter 12 (Sightseeing Tour Companies and Guides) of Title 19 of the District of Columbia Municipal Regulations (DCMR). This rulemaking amends Sightseeing Tour Guide licensing rules and administrative procedures in order to reflect changes in the law and the profession.

19 DCMR Chapter 12 is amended to read as follows:

CHAPTER 12 SIGHTSEEING TOUR COMPANIES AND GUIDES

Secs.

- 1200 Sightseeing Tour Guide Licenses
- 1201 Application for Sightseeing Tour Company License
- 1202 Application for Sightseeing Tour Guide License
- 1203 Requirements for Sightseeing Tour Companies
- 1204 Requirements for Sightseeing Tour Guides
- 1205 Denial, Suspension, or Revocation of Licenses
- 1206 Penalties
- 1207 Notice of Proposed Action and Appeal Rights
- 1208 Hearings and Appeal

1200. SIGHTSEEING TOUR GUIDE LICENSES

- 1200.1 Whenever used in this chapter, the term “guide” shall mean any person who engages in the business of guiding or directing people to any place or point of interest in the District, or who, in connection with any sightseeing trip or tour, describes, explains, or lectures concerning any place or point of interest in the District to any person, or seeks to obtain the patronage of any person for such a trip.
- 1200.2 No person shall offer to act as a sightseeing tour guide on the roads, sidewalks, public spaces or waterways of the District of Columbia unless application for a license has been made to the Department of Consumer and Regulatory Affairs (Department).
- 1200.3 No licensee shall engage in business or do business with any company or individual not properly licensed by the Department to conduct sightseeing tours.
- 1200.4 No vending of any articles of merchandise shall be allowed by any licensee in a sightseeing tour vehicle.

1201. APPLICATION FOR SIGHTSEEING TOUR COMPANY LICENSE

- 1201.1 Application for license to engage in business as a sightseeing tour company shall be made to the Director of the Department of Consumer and Regulatory Affairs (Director) on a form prescribed by the Director.
- 1201.2 Each applicant for a sightseeing tour company license shall provide the following information:
- (a) Contact information for the company's registered agent;
 - (b) The total number and description of vehicles the company will operate in the District for sightseeing tours;
 - (c) Affirmation that each vehicle the company will operate in the District is properly licensed for such operation by all relevant government agencies;
 - (d) The number of sightseeing tour guides the company estimates will provide sightseeing tours in the District;
 - (e) For companies using motor vehicles in conducting tours, the following proof of insurance:
 - (1) Companies with tour vehicles seating 15 persons or less, including the driver, shall maintain minimum insurance coverage of \$1,500,000, combined single limit (bodily injury, death, and property damage), per accident; or
 - (2) Companies with tour vehicles seating 16 persons or more, including the driver, shall maintain minimum insurance coverage of \$5,000,000, combined single limit (bodily injury, death, and property damage), per accident.
- 1201.3 Each applicant shall obtain a Certificate of Occupancy from the Department and pay all required fees related to licensure.
- 1201.4 For the information required under §§ 1201.2 (a), (b), and (c), the sightseeing tour company shall notify the Department in writing within thirty (30) days of any change.
- 1201.5 The Director is authorized, in connection with the consideration of license applications and from time to time during the license term, during regular business hours, to require any applicant or licensee to make available to the Director, or the Director's agent, such information as the Director considers necessary in determining or verifying whether the applicant or licensee has or retains the qualifications necessary for obtaining or retaining a license, or has violated or failed to comply with any applicable statute or provision of this chapter.
- 1201.6 The investigation by the Director may include the determination or verification of the identity of any person associated with the applicant or licensee in the business, and the extent, if any, of that person's control, either directly or indirectly, over the business activities of the applicant or licensee.
- 1201.7 Failure to make information available to the Director; failure to furnish to the Director the information the Director is authorized to request by this chapter; or

failure to furnish to the Director or to permit the Director to make copies of such records maintained by the applicant or licensee as the Director may specify, shall be grounds for denial, suspension, or revocation of license.

1202. APPLICATION FOR SIGHTSEEING TOUR GUIDE LICENSE

- 1202.1 Each person making application for a sightseeing tour guide license shall have three (3) sets of his or her fingerprints taken by the Metropolitan Police Department. These fingerprints shall become part of the application. Fingerprints may be submitted to the Federal Bureau of Investigation, or to any other authorities as the Director may deem advisable, for comparison and record.
- 1202.2 Each person making application for a sightseeing tour guide license shall meet the following requirements:
- (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen of the United States, or otherwise authorized to work in the United States;
 - (c) Be able to read, write, and speak the English language;
 - (d) Not be covered by diplomatic immunity;
 - (e) Not be on parole or probation;
 - (f) Not have been convicted or have served all or any part of a sentence within the past ten (10) years for any felony or an attempt to commit any felony; and
 - (g) Not have been convicted within the past five (5) years of a misdemeanor involving turpitude.
- 1202.3 Each applicant shall make a sworn statement as to the veracity of the statements contained in his or her application and pay all required fees related to licensure.
- 1202.4 Each applicant shall submit separate personal reference letters from three (3) persons who have known the applicant for a period of two (2) years or more and who will vouch for the applicant's general good character.
- 1202.5 Each applicant shall submit the certificate of a physician licensed in his or her home community certifying that the physician has examined the applicant within one (1) month prior to the date of application and that, to the best of the physician's knowledge and belief, the applicant is not suffering from any disease or infirmity which would render him or her unfit as a guide.
- 1202.6 Each applicant shall include with his or her application a copy of the applicant's police record in the community in which he or she resides on the date of the application, which is certified by the chief of police of that community.
- 1202.7 Each applicant shall be required to pass an examination under the supervision of the Director, or the Director's designated agent, covering the applicant's knowledge of public buildings and points of historical and general interest in and about the District.

1203. REQUIREMENTS FOR SIGHTSEEING TOUR COMPANIES

- 1203.1 No sightseeing tour company license shall be issued to any person, firm, corporation, partnership, or association engaged in the operation of sightseeing tour vehicles unless it has received the proper approval of the District Department of Transportation, the District Department of Motor Vehicles, and the Washington Metropolitan Area Transit Commission to operate in the District.
- 1203.2 The approval of sightseeing tour vehicles required by § 1203.1 shall be evidenced by the display of the applicable license(s) or certificate(s) issued by the relevant government agencies.
- 1203.3 Each vehicle operated by a licensed sightseeing tour company shall have at least one (1) licensed sightseeing tour guide on board the vehicle during its sightseeing tours in the District. This requirement shall not apply to those vehicles that utilize only audio recordings during the sightseeing tour; provided, that any driver of sightseeing tour vehicles who talks, lectures, or otherwise provides sightseeing information to passengers while the vehicle is in motion must be licensed as a sightseeing tour guide.
- 1203.4 Sightseeing tour companies that conduct walking tours or that allow customers to operate self-balancing personal transport vehicles, mopeds, or bicycles shall be subject to this chapter.
- 1203.5 Each sightseeing tour company shall ensure that its sightseeing tour vehicles comply with all District parking and traffic regulations.

1204. REQUIREMENTS FOR SIGHTSEEING TOUR GUIDES

- 1204.1 Each sightseeing tour guide, while engaged in performing services as a guide, shall conspicuously wear a badge bearing the licensee's license number that shall be issued to the licensee with the license.
- 1204.2 No person other than a licensed sightseeing tour guide shall, by the use of a uniform or part of a uniform, or by the use of insignia, device, word or words, or sign, indicate that he or she is engaged in the business of furnishing any sightseeing tour guide service, either on his or her own behalf or on behalf of another.
- 1204.3 No person, other than a licensed sightseeing tour company or sightseeing tour guide may use the words "sightseeing," "tours," "guide," or any combination of these words, to advertise the availability of sightseeing tour services. This prohibition shall not apply to the use of these words as part of the identifying lettering on vehicles coming into the District.
- 1204.4 No sightseeing guide shall take to a point of interest a person issued a sightseeing tour ticket covering that point of interest, or cause or allow a person to be taken, and to leave that person at the point of interest without providing that the person shall be taken from that point of interest to the next point of interest to be visited in the course of sightseeing tour for which the person has contracted.
- 1204.5 No person shall, on any street, highway, sidewalk, footway, or public space, stop or attempt to stop any other person for the purpose of soliciting that other person to

- employ him, her, or any person represented by him or her as a sightseeing tour guide or as a chauffeur and sightseeing tour guide.
- 1204.6 A schedule of rates for each type of sightseeing tour conducted by sightseeing tour guides shall be filed with the Department by the licensee. Such schedule shall be broken down by rates charged per hour, per half-day, and per full-day of sightseeing tours.
- 1204.7 No licensed sightseeing tour guide shall issue a sightseeing tour ticket unless:
- (a) The fees for the sightseeing tour have been disclosed in writing and prior to the start of any tour;
 - (b) The fees for each type of sightseeing tour shall be conspicuously displayed at the starting point of the sightseeing tour; and
 - (c) A schedule of fees for each type of sightseeing tour shall be permanently kept in each vehicle used for sightseeing tours and shall be presented upon request.
- 1204.8 All sightseeing tour companies or sightseeing tour guides shall furnish each person on sightseeing tours with a card or ticket containing the following:
- (a) The name of the guide conducting the tour;
 - (b) The name, address, and phone number of a person or office authorized to receive complaints relative to the non-performance by the guide or any part of any sightseeing tour contract;
 - (c) The name, address, and phone number of the person, firm, or corporation responsible for the conduct and management of the tour;
 - (d) A statement that, "Price of ticket includes admission charge where required"; and
 - (e) The reverse of each ticket shall bear, on the part to be retained by the person to whom it was issued upon completion of the tour, a statement that, "The following points of interest are open to the public without charge for admission", followed by a list of the points of interest covered by the ticket to which the statement applies.
- 1204.9 The authorized person or office under § 1204.8(c) shall be available to receive complaints during regular business hours of each day the sightseeing tours are conducted.
- 1204.10 The card or ticket required under § 1204.8 need not be furnished to any child or children under sixteen (16) years of age when the ticket has been furnished to the parent or guardian accompanying the child or children on the sightseeing tour.
- 1204.11 Sightseeing tour guides conducting one (1) or more persons on sightseeing tours of two (2) or more public buildings or points of interest shall furnish a ticket to each person conducted for gain on any sightseeing tour. Forms of the ticket shall be submitted to the Director who shall disapprove of the form if it fails to comply with the provisions of this chapter.

- 1204.12 Notwithstanding the requirements of § 1204.11, whenever any sightseeing tour guide is employed to conduct a sightseeing tour for one (1) or more groups of persons (with each group consisting of two (2) or more persons traveling as a party), the guide may, in lieu of furnishing a separate ticket to each person conducted on the tour, furnish one (1) ticket complying with the requirements of this section to the person who contracts for the services of the guide on behalf of the group. In any case in which the size of a group requires transportation in more than one (1) vehicle, a sufficient number of tickets shall be furnished to the person contracting for the services of the guide to provide one (1) ticket for each vehicle used for transporting the group. A ticket shall be carried by a group representative riding in each vehicle.

1205. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES

- 1205.1 The Director may refuse to issue or renew, or may suspend or revoke, a license issued under this chapter for any reason set forth in this chapter or D.C. Official Code § 47-2844.
- 1205.2 The Director also may refuse to issue or renew, or may suspend or revoke, a license issued under this chapter on any of the following grounds:
- (a) Conviction of the business license holder for any criminal offense involving fraudulent conduct arising out of or based on the business being licensed; or
 - (b) Willful or fraudulent circumvention by the business operator of any provision of District statute or regulation relating to the conduct of the business.
 - (c) Employment of any fraudulent or misleading device, method, or practice relating to the conduct of the business.
 - (d) The making of any false statement in the license application.
- 1205.3 All qualifications set forth in this chapter as prerequisite to the issuance of a license shall be maintained for the entire license period. Failure to maintain any qualification for license shall be cause for suspension or revocation of the license.

1206. PENALTIES

- 1206.1 Each licensee shall be liable for all penalties provided for violation of any of the provisions of this chapter, whether the violations are committed by the licensee or the licensee's agent or employee.
- 1206.2 Pursuant to D.C. Official Code § 47-2846, any person violating any provision of this chapter shall, upon conviction, be fined not more than three hundred dollars (\$300) or imprisoned for not more than thirty (30) days, or both.
- 1206.3 Any person whose license as a sightseeing tour company or sightseeing tour guide has been suspended or revoked as provided by this section, and who, after due notice in writing of the suspension or revocation, fails or refuses to surrender the license and badge as directed, or who violates any of the provisions of this chapter, shall, upon conviction, be fined not more than two thousand dollars (\$2000), or imprisoned not more than ninety (90) days.

- 1206.4 Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of this chapter pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985. Adjudication of any infraction of this chapter shall be pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.

1207. NOTICE OF PROPOSED ACTION AND APPEAL RIGHTS

- 1207.1 If the Department proposes to deny, suspend or revoke a license, a written notice shall be provided to the applicant or licensee, which states the proposed action and the basis for the proposed action.
- 1207.2 The notice required under § 1207.1 shall advise the applicant or licensee of the right to request a hearing within ten (10) business days (excluding Saturdays, Sundays, and legal holidays) from the date of the service of the notice.
- 1207.3 The notice shall advise that the action proposed or recommended will be taken at the expiration of ten (10) calendar days after service of the notice unless an appeal is taken.
- 1207.4 The notice shall be:
- (a) Served personally upon the applicant or licensee, or the applicant or licensee's agent; or
 - (b) Sent by first class mail to the home or business address of the applicant or licensee, or the applicant or licensee's agent, appearing on the application or license.
- 1207.5 A notice that is returned by the post office for reason of refusal of the addressee to accept delivery, or incorrect address, is deemed to have been properly served on the addressee by mail.
- 1207.6 An applicant or licensee may not file a separate application for licensure under this chapter during the appeal process.

1208. HEARINGS AND APPEAL

- 1208.1 Any licensee on whom a notice has been served pursuant to § 1207 may file a written notice of appeal with the Office of Administrative Hearings (OAH).
- 1208.2 All hearings and appeals shall be conducted pursuant to the regulations promulgated by OAH. Any stay of an OAH decision that results in the revocation of a license shall be issued pursuant to the procedures set forth by OAH.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, NE, Washington, D.C. 20002, not later than thirty (30) days after publication of this notice in the D.C. Register. Copies of the proposed rules can be obtained from the address listed above.